

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.


In the Matter of

CERTAIN MOBILE TELEPHONE)
HANDSETS, WIRELESS)
COMMUNICATION DEVICES, AND
COMPONENTS THEREOF)

Investigation No. 337-TA-578

Notice To The Parties

The Final Initial and Recommended Determinations (ID) were filed on December 12, 2007. Attached are the title page, conclusions of law and the order, which are not confidential and which form a portion of said determinations. For receiving said ID, see Commission rules 210.6 and 210.7. Counsel for complainant, the respondents and the staff received a copy of this notice on December 12, 2007


Paul J. Luckern
Administrative Law Judge

Issued: December 12, 2007

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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Investigation No. 337-TA-578

Final Initial and Recommended Determinations

This is the administrative law judge's Final Initial Determination under Commission rule 210.42. Said determination includes Appendices A-S. The administrative law judge, after a review of the record developed, finds inter alia that there is jurisdiction and that there is no violation of section 337 of the Tariff Act of 1930, as amended.

This is also the administrative law judge's Recommended Determination on remedy and bonding, pursuant to Commission rules 210.36(a) and 210.42(a)(1)(ii). If the Commission finds a violation, the administrative law judge recommends the issuance of a limited exclusion order barring entry into the United States of infringing mobile telephone handsets, wireless communication devices, and components thereof, the issuance of a cease and desist order, and a bond be set in the amount of 100 percent of entered value during the Presidential review period.

CONCLUSIONS OF

The Commission has in rem jurisdiction and subject matter jurisdiction.

There has been an importation of accused products which are the subject of the unfair trade allegation.

None of the accused products infringe the asserted claims of the '473 patent.

4. None of the accused products infringe the asserted claim of the '408 patent.

None of the accused products infringe the asserted claim of the '220 patent.

A domestic industry exists as to articles protected by the '473, '408, and '220 patents.

The asserted claims of the '473 patent have not been proven to be invalid based on anticipation.

The asserted claims of the '473 patent have been proven to be invalid under 35 U.S.C. § 103.

9. The asserted claims of the '473 patent have not been proven to be invalid under 35 U.S.C. § 102 for failure to disclose a best mode.

10. The asserted claims of the '408 and '220 patents have not been proven to be invalid.

11. There has been no violation of Section 337.

12. If a violation is found the record supports issuance of a limited exclusion order, a cease and desist order and a bond set in the amount of 100 percent of entered value during the sixty day Presidential review period.

ORDER

Based on the foregoing, and the record as a whole, it is the administrative law judge's Final Initial Determination that there is no violation of section 337 in the importation into the United States, sale for importation, and the sale within the United States after importation of certain mobile telephone handsets, wireless communication devices and components thereof. It is also the administrative law judge's recommendation, if the Commission finds a violation, that a limited exclusion order should issue barring entry into the United States of infringing mobile telephone handsets, wireless communication devices, and components thereof as well as a cease and desist order; and that a bond of 100 percent of entered value, during the Presidential review period, be set.

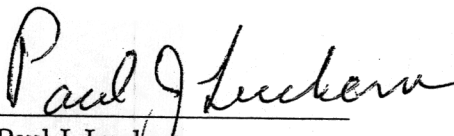
The administrative law judge hereby CERTIFIES to the Commission his Final Initial and Recommended Determinations which includes Appendices A-S together with the record consisting of the exhibits admitted into evidence. The pleadings of the parties filed with the Secretary and the transcript of the pre-hearing conference, and the hearing, are not certified, since they are already in the Commission's possession in accordance with Commission rules.

Further it is ORDERED that:

1. In accordance with Commission rule 210.39, all material heretofore marked in camera because of business, financial and marketing data found by the administrative law judge to be cognizable as confidential business information under Commission rule 201.6(a), is to be given in camera treatment continuing after the date this investigation is terminated.
2. Counsel for the parties shall have in the hands of the administrative law judge those portions of the final initial and recommended determinations which contain bracketed confidential business information to be deleted from any public version of said determinations, no later than

December 28, 2007. Any such bracketed version shall not be served via facsimile on the administrative law judge. If no such bracketed version is received from a party, it will mean that the party has no objection to removing the confidential status, in its entirety, from these initial and recommended determinations.

3. The initial determination portion of the Final Initial and Recommended Determinations, issued pursuant to Commission rule 210.42(h)(2), shall become the determination of the Commission forty-five (45) days after the service thereof, unless the Commission, within that period shall have ordered its review or certain issues therein or by order has changed the effective date of the initial determination portion. The recommended determination portion, issued pursuant to Commission rule 210.42(a)(1)(ii), will be considered by the Commission in reaching a determination on remedy and bonding pursuant to Commission rule 210.50(a).


Paul J. Luckern
Administrative Law Judge

Issued: December 12, 2007